

Practitioner's Docket No.: 791_181

**AFTER FINAL
PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: Akira MATSUMOTO and Masashi FUKUYAMA

Serial No.: 10/036,325

Group Art Unit: 1772

Filed: December 26, 2001

Examiner: Alicia Ann Chevalier

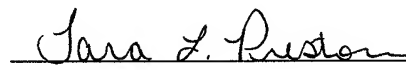
Conf. No.: 3228

For: RIBBONED POLARIZATION-MAINTAINING FIBER AND
MANUFACTURING METHOD THEREFOR, AND
POLARIZATION-MAINTAINING OPTICAL FIBER ARRAY
USING THE SAME

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**CERTIFICATION OF EFS
TRANSMISSION**

I hereby certify that this paper is being transmitted via EFS to the Patent and Trademark Office on February 26, 2007.



Tara L. Preston

REQUEST FOR RECONSIDERATION

Sir:

In response to the Final Office Action mailed December 4, 2006, Applicants respectfully request reconsideration and withdrawal of the rejections of record based on the following arguments.

Examiner Chevalier is thanked for courtesies extended to Applicants' representatives during a telephonic interview on February 7, 2007. The substance of that interview has been incorporated into the following remarks.

Claims 2-6 and 20-23 were rejected under §103(a) over Kozuka JP '246. This rejection is respectfully traversed.

First, the PTO is misconstruing the claim language. Claim 21 recites that a ribboned polarization-maintaining (P/M) fiber comprises “a cured ribbon portion having first and second lateral ends, and a length of 2 to 300 mm surrounding at least some of the polarization-maintaining fibers.” This aspect of the invention is well shown in Figs. 1(a-d) of the present application. The PTO is respectfully requested to note in Figs. 1(a-d) of the present application that the cured ribbon portion 2 having first and second lateral ends (the extent of the length T) surrounds at least some (all eight shown) of the P/M fibers 12. The PTO asserts, in Section 3 on page 2 of the Office Action, that “Fig. 3 clear shoes [sic] ‘at least some of the polarization-maintaining fibers’ is surrounded,” apparently asserting that each of the P/M fibers is partially surrounded. This is not the proper interpretation of claim 21.

In response to the previous Office Action mailed July 27, 2006, Applicants provided evidence, in the form of a Rule 132 Declaration signed by an expert in this field, that “the cured adhesive [of Kozuka JP ‘246] does not surround the P/M fibers” at either of the three cross-sectional sections of the device disclosed therein. Applicants respectfully submit that the PTO must accept this evidence as legally rebutting mere arguments asserted by a patent Examiner. Accordingly, absent evidence provided by the PTO to the contrary, the PTO is obligated to accept the evidence already submitted and withdraw the present rejection.

Second, Examiner Chevalier asserted during the interview that the claim language “can be stripped to expose the P/M fibers without damaging the P/M fibers” does not sufficiently describe a structural aspect, because the phrase “can be” is a matter of degree. The PTO is respectfully requested to note that the present claim language should be read and understood as it would be by one skilled in the art. There is a significant need in the industry for a ribboned P/M fiber having a ribbon portion that can be stripped in the field to expose undamaged portions or lengths of P/M fibers. Stripping must take place using an economically and commercially viable method of stripping, which can include a heated knife-like stripper, as is well known

in the art. The PTO's broad assertion during the interview that anything can be stripped when given sufficient time, equipment, and expense is not relevant (especially to one skilled in the art) to the claim language in light of the specification. Using the presently cited art, Kozuka JP '246, as an example, the device included therein cannot be stripped using any commercially viable means to expose an undamaged portion of P/M fibers. Further, because it is well known in the art that devices, such as the one disclosed in Kozuka JP '246, cannot be stripped using any commercially viable means, there is clearly no disclosure or suggestion within Kozuka JP '246 that the device disclosed therein can be stripped without damaging the P/M fibers contained therein. This point has already been thoroughly debated earlier in the prosecution before the prior Examiner, and was resolved in favor of Applicants. For the PTO to resurrect this position at this late stage in the prosecution is extremely unfair to the Applicants, and turns the concept of "compact prosecution" on its ear.

Third, during the interview, Examiner Chevalier repeatedly stated that the language of claim 21 encompasses many non-optical devices that are held together with an adhesive. Any such assertion that the ribboned P/M fiber as recited in claim 21 is not limited to the field of optics is misplaced and inappropriate. The PTO is respectfully requested to note the first component listed within claim 1 is "a plurality of polarization-maintaining fibers." Official notice is taken that P/M fibers are optical fibers *per se*. This is supported by the prior art references that have been applied by the PTO in this case. It is also well-known in the art that specific attributes are given to P/M fibers that are not given to other long fiber-like items, such as plastic tubing, electrical wiring, and string. Objects such as tubing, electrical wiring, and string are not required to be rotated about their axes to a particular position to maintain a desired characteristic such as would be required in P/M fibers. Further, the PTO is respectfully requested to note that all of the art cited in the prior Office Actions have been related directly to P/M fibers because P/M fibers require sufficiently different

structures than would be required if the fibers were merely tubing, electrical wires, or string.

For at least the foregoing reasons, Applicants respectfully submit that a ribboned P/M fiber, as recited in claim 21, would not have been obvious to one skilled in the art provided with the disclosure of Kozuka JP '246. Since claims 2-6 and 21-23 depend either directly or indirectly from claim 1, those claims are also believed to be allowable over the applied prior art. Accordingly, reconsideration and withdrawal of the present rejection are requested.

Examiner Chevalier indicated during the interview that, while she was not convinced by the arguments presented during the telephonic interview, she would likely reopen prosecution rather than allow the case to proceed to the Appeal Board if Applicants were to appeal the case in its present form. Applicants can only ascertain from such a comment that Examiner Chevalier will reopen prosecution in response to the present Request for Reconsideration without forcing Applicants to proceed with what would otherwise be an unnecessary expense of filing a Notice of Appeal and Brief. Applicants sincerely hope that Examiner Chevalier will reconsider the current rejection after reviewing these remarks, and issue a Notice of Allowance based on the present claims (or at least remove the finality of the present rejection and reopen prosecution).

Examiner Chevalier is respectfully requested to confirm receipt and consideration of the Information Disclosure Statement filed January 23, 2007.

If Examiner Chevalier believes that contact with Applicants' attorney would be advantageous toward the disposition of this case, she is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

February 26, 2007

Date



Stephen P. Burr
Reg. No. 32,970

Timothy D. Evans
Reg. No. 50,797

SPB/TE/tlp

BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068

Customer No.: 025191
Telephone: (315) 233-8300
Facsimile: (315) 233-8320